

No. **3859**

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: MAR 12 2015

Subject Considered:

BRYAN J. TOLLI
210 Broadturn Rd.
Scarborough, ME 04074-9131

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 7213

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Bryan J. Tolli of Scarborough, Maine.

WAIVER

Tolli acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Tolli waives all of these rights in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), Tolli does not admit to a violation of the insurance laws of Texas and has entered into this consent order in an attempt to settle all allegations against him and to avoid the expense and uncertainty of litigation.

FINDINGS OF FACT

1. Tolli, individual identification no. 319002, holds a general lines property and casualty license originally issued July 1, 1999.
2. Tolli worked for Hartford, Inc. d/b/a Evergreen MGA of Lewiston, Maine, from August 1998 through April 2014. Hartford, Inc. d/b/a Evergreen MGA does not hold any license or authorization to perform the acts of an agent, managing general agent, or to otherwise transact the business of insurance in Texas. Tolli did not hold a position in management while working for Hartford, Inc. d/b/a Evergreen MGA.
3. Beginning in 2000, while working for Hartford, Inc. d/b/a Evergreen MGA, Tolli sold liability insurance policies in Texas through Evergreen USA Risk Retention Group, Inc., a risk retention group registered with the department. Together with those liability insurance policies, Tolli sold commercial property insurance in Texas on behalf of Evergreen Indemnity, Ltd. (EVI) of Barbados. EVI does not hold any license or

authorization to perform the acts of an insurer, or to otherwise transact the business of insurance in Texas.

4. From 2000 to 2014, Tolli sold EVI insurance contracts to campgrounds and recreational vehicle (RV) parks located throughout Texas. Tolli issued, delivered, and renewed 307 EVI insurance contracts during those years. Because many of those contracts were renewals, they represent approximately 30 separate accounts.
5. From 2000 to 2014, Tolli was compensated and accepted commissions and consideration totaling approximately \$30,000 from EVI and Hartford, Inc. d/b/a Evergreen MGA for the sale of the EVI insurance contracts.
6. Tolli represents that his employer, Lucas Hartford of Hartford, Inc. d/b/a Evergreen MGA, told him that EVI was not required to be licensed in Texas. As a result, Tolli failed to independently conduct any due diligence or investigation as to whether EVI was authorized to conduct the business of insurance in Texas without a license or certificate of authority.
7. Although EVI policyholders were notified in writing that EVI is an offshore company that does not participate in any state insolvency fund, Tolli did not specifically disclose and otherwise inform Texas policyholders that EVI does not hold any license or certificate of authority in Texas, and is not authorized to transact the business of insurance in Texas.
8. In April 2014, Tolli left the employment of Hartford, Inc. d/b/a Evergreen MGA and began working for a licensed insurance agency. Tolli represents that in his new employment position he has been helping EVI policyholders in Texas to obtain new commercial property insurance coverage with insurance companies licensed and authorized to conduct the business of insurance in Texas.
9. Tolli performed the following acts of insurance in Texas, directly or indirectly, on behalf of unlicensed and unauthorized persons and entities: solicited and provided quotes for coverage, took and received applications, sold and negotiated coverage, issued and delivered an insurance contract, renewed an insurance contract, received and collected premiums and commissions, disseminated information relating to coverage and rates, and otherwise transacted and engaged in the business of insurance in Texas.
10. Tolli represents that, to the best of his knowledge, the EVI policyholders in Texas to whom he sold insurance contracts have not incurred any unpaid claims or losses.
11. There appears to be no evidence of consumer harm to Texans or owners of Texas risks at this time related to the unauthorized insurance sold by Tolli on behalf of EVI and Hartford, Inc. d/b/a Evergreen MGA. The department has no evidence of complaints from EVI policyholders in Texas related to Tolli and the unauthorized insurance he sold on behalf of EVI and Hartford, Inc. d/b/a Evergreen MGA.
12. On July 30, 2014, Tolli submitted an application to TDI for a surplus lines agent's license.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.001-82.056, 84.021-84.022, 101.101 – 101.156, 4005.101, and 4005.102.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Bryan J. Tolli violated TEX. INS. CODE § 101.102(a) by directly or indirectly performing acts that constitute the business of insurance, as that term is defined in TEX. INS. CODE § 101.051.
4. Bryan J. Tolli, through Hartford, Inc. d/b/a Evergreen MGA, sold the insurance products of a company not authorized to do the business of insurance in Texas, in violation of TEX. INS. CODE §§ 101.051, 101.102(a), 4001.051, and 4001.101.
5. Pursuant to TEX. INS. CODE § 101.201(a), Bryan J. Tolli remains contractually liable to Texans and owners of Texas risks whom he assisted directly or indirectly in the procurement of EVI contracts for the full amount of a claim or loss under the terms of the EVI contracts if EVI fails to pay the claim or loss.

The commissioner orders Bryan J. Tolli to immediately cease and desist from directly or indirectly doing acts that constitute the business of insurance in Texas, except as he is authorized by statute.

The commissioner grants Bryan J. Tolli's surplus lines license.

The commissioner further orders Bryan J. Tolli to pay an administrative penalty of \$10,000 within 90 days from the date of this order. The payment must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



David C. Mattax
Commissioner of Insurance

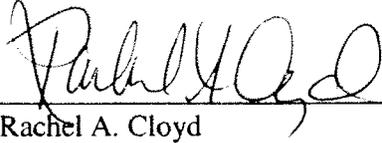
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COMMISSIONER'S ORDER

Bryan J. Tolli

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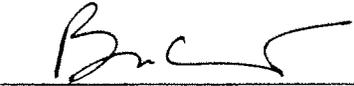


Rachel A. Cloyd

Staff Attorney, Enforcement Section

Texas Department of Insurance

COUNSEL FOR RESPONDENT:



Bruce McCandless, III

Mitchell Williams

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AFFIDAVIT

STATE OF Maine §
COUNTY OF Camden §

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

"My name is Bryan J. Tolli. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

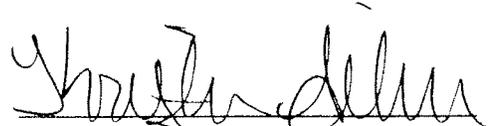
I am waiving rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner of insurance.

I have knowingly and voluntarily entered into this consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the state of Texas."


Affiant

SWORN TO AND SUBSCRIBED before me on March 4, 2015.

(NOTARY SEAL)


Signature of Notary Public
ex. 9-5-15

